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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

YELLOWCAKE, INC., a California
corporation,

Plaintiff,

v.

HYPHY MUSIC, INC.,

Defendant.

HYPHY MUSIC, INC.,

Cross-Complainant,

v.

YELLOWCAKE, INC.; COLONIZE MEDIA,
INC.; JOSE DAVID HERNANDEZ; and
JESUS CHAVEZ SR.,

Cross-Defendants.

Case No. 1:20-CV-00988-JLT-BAM

**JESUS CHAVEZ, SR.'S NOTICE OF
MOTION AND MOTION FOR
SUMMARY JUDGMENT**

Date: September 29, 2023

Time: 9:00 a.m.

Crtrm.: 4

The Hon. District Judge Jennifer L. Thurston

TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on September 29, 2023, at 9:00 a.m., or as soon
thereafter as counsel may be heard, in the courtroom of the Honorable Jennifer L. Thurston, located
in the United States Courthouse, 2550 Tulare Street, Courtroom 4, Fresno, CA 93721, Counter-

1 Defendant JESUS CHAVEZ, SR. ("Chavez") will and hereby does move this Court for Summary
2 Judgment pursuant to Federal Rules of Civil Procedures, Rule 56.

3 This Motion is made upon the following grounds:

4 1. Counterclaimant HYPHY MUSIC INC.'s ("Counterclaimant") breach of contract
5 claim fails as a matter of law because the oral agreement regarding an alleged copyright transfer is
6 not in writing as required by the Copyright Act of 1976. (17 U.S.C. § 204, subd. (a).)

7 2. The copyrighted sound recordings are not a work for hire because Chavez, and the
8 other Los Originales de San Juan band members, were not employed by Counterclaimant. (17
9 U.S.C.A. § 101.)

10 3. The copyrighted sound recordings are not a work for hire because there is no written
11 work for hire agreement between the parties. (17 U.S.C.A. § 101.)

12 This Motion is based on this Notice of Motion; Memorandum of Points and Authorities;
13 Statement of Undisputed Material Facts; Statement of Evidence; the Declaration of William H.
14 Littlewood; the Declaration of Jesus Chavez, Sr.; and Request for Judicial Notice all of which are
15 filed concurrently herewith, all of the pleadings, files, and records in this proceeding, all other
16 matters of which the Court may take judicial notice, and any argument or evidence that may be
17 presented to or considered by the Court prior to its ruling.

18 Dated: July 14, 2023

WHITNEY, THOMPSON & JEFFCOACH LLP

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20 By:



Mandy L. Jeffcoach

William H. Littlewood

Jaskarn S. Chahal

Attorneys for JESUS CHAVEZ, SR.